

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TIMOTHY J. WYGANT,)
) No. 137, 2011
Plaintiff Below,)
Appellant,) Court Below: Superior Court
) of the State of Delaware in
v.) and for New Castle County
)
GEICO GENERAL) C.A. No. N10C-07-096
)
Defendant Below,)
Appellee.)

Submitted: July 27, 2011
Decided: August 16, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 16th day of August 2011, it appears to the Court that:

(1) Timothy Wygant appeals from a Superior Court judge's decision to grant Geico's Cross-Motion for Summary Judgment. Specifically, Wygant argues that the trial judge erred by failing to find the language in his insurance contract ambiguous and to interpret it against Geico. Because we believe the insurance contract is unambiguous, we AFFIRM.

(2) On December 22, 2009, Wygant sustained personal injuries in a car accident he did not cause. At the time, Geico insured Wygant under a Delaware policy that provided Personal Injury Protection. Specifically, Geico insured Wygant for medical and wage benefits up to the PIP policy limits. Wygant

maintains that his PIP policy entitles him to \$40,000 per person/\$80,000 per accident of PIP coverage, consisting of the \$15,000/\$30,000 minimum coverage limits required by law *plus* an extra \$25,000/\$50,000. Meanwhile, Geico asserts that the policy only entitles Wygant to a total of \$25,000 per person/\$50,000 per accident of PIP coverage, which *includes* the \$15,000/\$30,000 minimum coverage limits required by law. Wygant filed a declaratory judgment action in Superior Court on July 12, 2010, seeking affirmation of his position. He moved for summary judgment on December 31, 2010. Geico cross-moved for summary judgment on February 7, 2011. The parties argued their positions to a judge on March 16, 2011. The judge agreed with Geico's position and granted its cross-motion on March 17, 2011. Wygant now appeals.

(3) The interpretation of insurance contracts involves legal questions, and we review those interpretations *de novo*.¹ When opposing parties make cross motions for summary judgment, a judge should not grant—and we will not affirm—summary judgment for one party unless no genuine issue of material fact exists and that party is entitled to judgment as a matter of law.²

¹ *Emmons v. Hartford Underwriters Ins. Co.*, 697 A.2d 742, 744 (Del. 1997) (citing *Playtex FP, Inc. v. Columbia Cas. Co.*, 622 A.2d 1074, 1076 (Del. 1992)).

² *Id.* at 745.

(4) We interpret insurance contracts in a common sense manner and give effect to all provisions so that a reasonable policyholder can understand the scope and limitation of coverage.³ When insurance contract language is clear and unambiguous, we “[do] not destroy or twist the words under the guise of construing them.”⁴ We bind parties to the plain meaning of clear and unequivocal language in insurance contracts lest we create a new contract with rights, liabilities, and duties to which the parties did not assent.⁵ If contract language is ambiguous, on the other hand, then we employ the principle of *contra proferentem* and construe it against the insurer who drafted it.⁶

(5) In this case, the judge correctly found the contract language unambiguous. Under Delaware law, any auto insurance contract must include, at minimum, PIP coverage up to \$15,000 per person or \$30,000 per accident.⁷ Geico

³ *Penn Mut. Life Ins. Co. v. Oglesby*, 695 A.2d 1146, 1149–50 (Del. 1997).

⁴ *Hallowell v. State Farm Mut. Auto. Ins. Co.*, 443 A.2d 925, 926 (Del. 1982).

⁵ *Id.*

⁶ *Penn*, 695 A.2d at 1150.

⁷ 21 *Del. C.* § 2118(b). Requirement of insurance for all motor vehicles required to be registered in this State; penalty

...

(b) The minimum insurance coverage which will satisfy the requirements of subparagraph a. of this paragraph is a minimum limit for the total of all payments which must be made pursuant to that subparagraph of \$15,000 for any 1 person and \$30,000 for all persons injured in any 1 accident.

...

offered this minimum coverage to Wygant, but also offered several different levels of coverage for higher premiums. According to the third page of the policy, which explains Wygant's PIP coverage options, he could choose to invest in either "Basic Personal Injury Protection," which included only the \$15,000 per person/\$30,000 per accident minimum compulsory coverage required by law, or he could choose one of two separate "Additional Personal Injury Protection" schemes. Above the "Additional Personal Injury Protection" schemes, the policy itself explains that "Additional Personal Injury Protection is available by selecting limits higher than the minimum." According to this explicit language, the "additional protection" option amounts are higher limits in and of themselves; they are not amounts for an insured to add to his compulsory minimum limits. Specifically, while the "[b]asic" protection involved purchasing coverage limits of \$15,000 per person/\$30,000 per accident, the two "[a]dditional" protection options involved paying higher premiums for coverage limits of either \$25,000 per person/\$50,000 per accident, or, for even higher premiums, \$50,000 per person/\$100,000 per accident.

(6) The declarations page of the policy clearly shows that Wygant chose to pay small extra biannual premiums⁸ in return for the "Additional Personal Injury Protection" scheme that included limits of \$25,000 per person/\$50,000 per

⁸ He paid \$4.90 per car for each of the two cars subject to the policy.

accident. The policy reaffirms this choice two pages later—on the fourth page of the policy—where, in Column B, Wygant eschewed the option to select only the “Minimum Limits” of \$15,000 per person/\$30,000 per accident. Instead, Wygant selected the “Add'l Limits as Shown in Column C” option, which Column C revealed to be \$25,000 per person/\$50,000 per accident. Explicitly, then, the policy identified the \$25,000/\$50,000 values as “limits.”

(7) The options offered from which Wygant made his selection make clear that the “Additional Personal Liability Protection” scheme Wygant purchased involved a maximum PIP coverage limit of \$25,000 per person/\$50,000 per accident *instead of*, but including, the minimum compulsory coverage limit of \$15,000 per person/\$30,000 per accident. This coverage is not *in addition to* the minimum compulsory limit. Besides these provisions, however, Geico included as the final two pages of the policy an amendment clearly labeled “Additional Personal Injury Protection Amendment.” This amendment explained the operation of the “Additional Personal Injury Protection.” The final provision of this amendment explains:

EXCESS PROVISION

The coverage afforded by this amendment increases the Personal Injury Protection coverage limits to the Additional Personal Injury Protection limits you have selected and includes the mandatory Personal Injury Protection limits of \$15,000 [per person]/\$30,000 [per accident].

This language very clearly summarizes the meaning of the “Additional Personal Injury Protection.” This provision, along with the other provisions of the policy explained above, clarify unambiguously that Wygant’s biannual premiums afforded him PIP coverage up to a *total* of \$25,000 per person/\$50,000 per accident. Thus, the “Additional Personal Injury Protection” that Wygant purchased includes both the \$15,000 per person/\$30,000 per accident compulsory minimum coverage limit and an extra \$10,000 per person/\$20,000 per accident.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice